IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No. 74529-M of 2006

DATE OF DECISION: NOVEMBER 28, 2006

Kaptan Singh Yadav

...PETITIONER

VERSUS

Smt.Saroj Khatana

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.P.M. Anand, Advocate,
for the petitioner.

...

The petitioner, who is the accused, has filed this petition under Section 482 Cr.P.C. for setting aside the order dated 18.8.2006 passed by the trial Court vide which the application filed by him under Section 311 Cr.P.C. for permission to recall the complainant-respondent for further cross-examination, has been dismissed.

In this case, the petitioner is facing the trial in a complaint filed by the respondent under Section 138 of the Negotiable Instruments Act and Sections 420/406 IPC for dishonour of a cheque of Rs.32.00 lacs. In the aforesaid application filed under Section 311 Cr.P.C. it was alleged by the petitioner that though the evidence of the complainant was closed by the trial Court, but certain questions/clarifications regarding the alleged payment, which are very material for just decision of the case, could not be put to the complainant in cross-examination by the accused. The trial Court finding no merit in the said application, dismissed the same, while observing as under:-

> "After hearing both sides, I find no force in the submission of learned defence counsel. This application has been filed simply on the grounds that accused failed to put certain questions regarding payment of amount etc. to the complainant. However, I have gone through the testimony of complainant. I find that learned defence counsel representing accused Shri Shyambir

Singh, Adv. was present. He was given due opportunity to subject complainant to cross examination at length on all material points. This opportunity was availed of. The testimony of complainant was closed after learned defence counsel had concluded his cross examination to his satisfaction. Only thereafter, case was fixed for statement of accused. In the cross examination, relevant question regarding payment of amount etc. had been put no tones to the complainant and were answered by the complainant in a positive manner, as well. The wording of the application appears to be quite vague because it was for the accused to explain candidly what certain questions remained to be put to the complainant by cross examining complainant. The word "etc." in third line of para no.2 of this application leaves the filled wide open. From the application it appears that this application motivated to prolong the proceedings and it also appears that accused wants to fill up certain lacuna."

After hearing the counsel for the petitioner and going through the aforesaid impugned order, I do not find any ground to interfere in the same as I am also of the view that the petitioner is adopting the delaying tactics to prolong the proceedings.

Dismissed.

November 28, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE